

REMARKS

Claims 1-28 remain in the application and claims 2 and 19 have been amended hereby.

Reconsideration is respectfully requested of the rejection of claims 1-28 under 35 USC 101, as being directed to non-statutory subject matter.

It is respectfully submitted that independent claims 1 and 18 are clearly directed to statutory subject matter because they recite an apparatus having a plurality of interrelated elements.

It is well settled that, if a claim defines a useful machine by identifying the physical structure of the machine in terms of its hardware or hardware and software combination, it defines a statutory product. See, e.g., Lowry, 32 USPQ2d at 1034-1035; Warmerdam, 31 USPQ2d at 1760.

Further, in most cases, a claim to a specific machine will have a practical application in the technological arts. See, In re Alappat, 31 USPQ2d 1545, 1557 (Fed. Cir. 1994); State Street, 47 USPQ2d 1596, 1601 (Fed. Cir. 1998).

Furthermore, the guidelines set forth in MPEP Sec. 2106 state that only when the claim is devoid of any limitation to a practical application in the technological arts should it be rejected under 35 USC 101. Clearly claims 1 and 18 recite

several limitations having practical applications in the technological arts.

Accordingly, it is respectfully submitted that claims 1 and 18, and the claims depending therefrom, recite statutory subject matter.

Claims 2 and 19 have been amended to recite their proper dependency on claims 1 and 18, respectively.

Applicant mailed a Request for continued Examination (RCE) on October 7, 2004, which was filed on October 12, 2004, requesting the consideration of the Amendment mailed on August 17, 2004.

The present Office Action in the "Response to Arguments" section states that the new limitations added to the independent claims have been addressed in the re-worded rejection. Applicant has not been able to find where in the present rejection the newly added limitation were addressed and respectfully requests reconsideration thereof.

Accordingly, reconsideration is respectfully requested of the rejection of claims 1-28 and 46-51 under 35 USC 103(a), as being unpatentable over Hendricks et al.

Features of the apparatus according to the present invention are a decision unit or controller for checking whether the sent data is data corresponding to a new content and storing the sent data in a memory based on the results of the checking. See steps S9-10 in Fig. 5 of the present

application, for example.

Independent claims 1 and 18 have been amended to recite these features of the present invention.

It is respectfully submitted that Hendricks et al. fails to show or suggest a decision unit for checking whether the sent data is data corresponding to a new content and storing the sent data in a memory based on the results of the checking. Hendricks et al. is merely providing a user with short video clips on a split screen to choose from after "grazing" through the video clips. See col. 20, lines 30-39 of Hendricks et al.

Accordingly, it is respectfully submitted that amended independent claims 1 and 18, and the claims depending therefrom, are patentably distinct over Hendricks et al.

Favorable reconsideration is earnestly solicited.

Respectfully submitted,

COOPER & DUNHAM LLP

A handwritten signature in black ink, appearing to read "Jay H. Maioli".

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JHM/PCF:pmc